

E-FILING

# United States District Court

NORTHERN DISTRICT OF CALIFORNIA

Filed  
MAY 13 2005  
RICHARD W. WIEKING  
CLERK U.S. DISTRICT COURT  
SAN JOSE, CALIFORNIA

UNITED STATES OF AMERICA

v.

JOSEPH NATHANIEL HARRIS

CRIMINAL COMPLAINT

CASE NUMBER:

05 70328

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about March 28, 2005 in Santa Clara county, in the

Northern District of California defendant(s) did, (Track Statutory Language of Offense)

knowingly and willfully embezzle, steal, and otherwise without authority convert to the use of any person other than the rightful owner and intentionally misapply the property and other assets of a health care benefit program

in violation of Title 18 United States Code, Section(s) 669

I further state that I am a(n) Special Agent, FBI and that this complaint is based on the following

Official Title

facts:

See attached affidavit.

Continued on the attached sheet and made a part hereof:

☒ Yes☐ NoApproved  
As To  
Form:

AUSA: MATTHEW A. LAMBERTI

Name/Signature of Complainant:

DEBORAH S. AMRHEIN

Sworn to before me and subscribed in my presence,

Date

5/13/05

at

San Jose, California

City and State

PATRICIA V. TRUMBULL  
CHIEF U.S. MAGISTRATE JUDGE

Name &amp; Title of Judicial Officer

Patricia V. Trumbull

Signature of Judicial Officer

1  
2 NORTHERN DISTRICT OF CALIFORNIA

3 SAN JOSE, CA

4 IN RE: )  
5 JOSEPH NATHANIEL HARRIS )  
6 \_\_\_\_\_ )

7 AFFIDAVIT

8 I, Deborah S. Amrhein, first having duly been sworn  
9 and under oath, states as follows:

10 1. I am a Special Agent with Federal Bureau of  
11 Investigation (FBI) in the San Francisco Division and have  
12 been so employed since November 26, 1995. In that capacity,  
13 I have been assigned to investigate federal violations  
14 relating to health care fraud and white collar crimes.

15 2. The statements contained in this affidavit are  
16 based in part on information provided by Special Agents of  
17 the FBI, on conversations held with detectives and officers  
18 from other state and local law enforcement agencies, on  
19 information provided by witnesses, and on my experience and  
20 background as a Special Agent of the FBI.

21 3. Since this affidavit is for the limited purpose  
22 of an arrest warrant, I have not included every fact known to  
23 me or developed through this investigation. I have set forth  
24 those facts necessary to establish probable cause to believe  
25 that a violation of Title 18, United States Code, Section 669  
26 (Theft or embezzlement in connection with health care) has  
27 been committed by JOSEPH NATHANIEL HARRIS, date of birth  
28 December 25, 1962.

1           4. The purpose of this affidavit is to effect the  
2 arrest of JOSEPH NATHANIEL HARRIS, who I believe has engaged  
3 in the theft of property from San Jose Medical Group.  
4 According to Title 18, United States Code, Section 24, San  
5 Jose Medical Group qualifies as a "health care benefit  
6 program" under Title 18, United States Code, Section 669 in  
7 that it is an entity that is providing a medical benefit,  
8 item, or service for which payment may be made under a plan  
9 or contract, affecting commerce. I have seen documentation  
10 showing that San Jose Medical Group qualifies as a Medicare  
11 Federal Health Care Supplier to render health care related  
12 services to Medicare beneficiaries. I have also seen that  
13 San Jose Medical Group is enrolled in the Medicare program  
14 and has been assigned a Medicare Identification Number. I  
15 have also reviewed documentation showing that San Jose  
16 Medical Group has a written Medical Group/IPA Services  
17 Agreement between PacifiCare of California corporation and  
18 San Jose Medical Group, Inc., effective February 1, 2001.  
19 Moreover, additional documentation shows that San Jose  
20 Medical Group is an enrolled member of the Secure Horizons  
21 Health Plan. Secure Horizons Health Plan is the prepaid  
22 health plan operated by PacifiCare pursuant to the CMS  
23 (Center for Medicare & Medicaid Services) Agreement which  
24 provides Covered Services to individuals eligible to receive  
25 Medicare benefits. As described in more detail below, I  
26 believe there is reason to believe that JOSEPH NATHANIEL  
27 HARRIS stole from a health care benefit program computer  
28 equipment as well as a Digital Video Device (DVD) with

1 sensitive medical information on almost 200,000 patients.

2 PROBABLE CAUSE THAT JOSEPH NATHANIEL HARRIS HAS VIOLATED

3 TITLE 18, UNITED STATES CODE, SECTION 669

4 A. San Jose Medical Group

5 5. On March 31, 2005, Ernie Wallerstein, Chief  
6 Executive Officer (CFO) of San Jose Medical Group, 400 Race  
7 Street, San Jose, California (CA), contacted San Francisco  
8 Division of the FBI regarding a burglary wherein someone  
9 stole computer hardware and a computer disc (CD) containing  
10 patient data. Missing were two Dell computers, model  
11 OptiPlex GX 270, and one Dell computer flat screen monitor,  
12 model #E7735. One of the stolen computers contained a CD  
13 contained patient line item entries for clinic visits of  
14 nearly 200,000 patients of San Jose Medical Group. The CD  
15 was also missing.

16 6. Employees of San Jose Medical Group noticed  
17 that the computer items were missing on the morning of  
18 Monday, March 28, 2005. The main server for the San Jose  
19 Medical Group computer system logged a time and date of 1:40  
20 a.m., March 28, 2005 when the first computer was disconnected  
21 from the network. On March 28, 2005, the crime was reported  
22 to and responded by the San Jose Police Department, in San  
23 Jose, CA.

24 7. The missing CD was described as containing  
25 patient line entries including each patient name, address,  
26 telephone number, date of birth, social security number, date  
27 of service, treatment doctor, diagnosis, procedure, billing  
28 codes, and insurance company information.

1           8. Wallerstein informed the FBI that JOSEPH  
2 NATHANIEL HARRIS was the branch manager of the San Jose  
3 Medical Group, McKee Branch clinic located at 227 North  
4 Jackson Avenue, San Jose, CA from August 2004 to September  
5 22, 2004. During HARRIS's employment at San Jose Medical  
6 Group, there were several incidents of reported theft of  
7 money and medications. HARRIS was confronted by Wallerstein  
8 regarding the suspicion of his involvement in those thefts.  
9 Because of these suspicions, the Wallerstein asked HARRIS to  
10 resign from his position as manager. HARRIS complied.

11           9. During HARRIS's employment at San Jose Medical  
12 Group, he bragged to fellow employees of his experience as a  
13 Green Beret, in military security, and about his side  
14 business of selling used computers.

15           10. Following HARRIS's termination at San Jose  
16 Medical Group, six burglaries occurred at three different  
17 locations of San Jose Medical Group.

18 B. Silicon Valley Children's Fund

19           11. Minh Ngo-Gonzalez, Executive Director of  
20 Silicon Valley Children's Fund, 4525 Union Avenue, San Jose,  
21 CA 95124 advised that JOSEPH NATHANIEL HARRIS was employed by  
22 the Silicon Valley Children's Fund as Program Director from  
23 August 2002 to August 2003. He had an office situated on the  
24 second floor of the office building. HARRIS was fired  
25 inasmuch as he spent an excessive amount of time conducting  
26 his side business while at work. At work, HARRIS created a  
27 website for his personal business, JNH Consulting. Ngo-  
28 Gonzalez stated that HARRIS used photos, contacts, and

1 information from Silicon Valley Children's Fund for his  
2 consulting business. He also used the work computers to  
3 conduct his personal side business. HARRIS frequently posted  
4 computers for sale on www.craigslist.org. HARRIS submitted  
5 many of these postings using the e-mail address of  
6 neuro25@msn.com. When HARRIS was fired from Silicon Valley  
7 Children's Fund, most of his computer hard drive was copied,  
8 preserving examples of his website, craigslist postings, and  
9 personal e-mails.

10 12. On August 15, 2003, HARRIS sent an e-mail to  
11 Ngo-Gonzales about being fired. HARRIS wrote to Ngo-Gonzalez  
12 that, "...Anyways, Since I am not longer an employee, I felt  
13 it ok to contact the board memebbers and myabe some donors  
14 abou this. I can make you job hard to." (sic)

15 13. On April 19, 2004, Silicon Valley Children's  
16 Fund was burglarized, and the thief stole two laptop  
17 computers and one desktop computer. The first laptop was  
18 taken from a locked office. The second laptop was taken from  
19 a back office behind two separate locked doors. The third  
20 computer was in a locked office behind the office where the  
21 second computer was taken. Also taken from a locked storage  
22 cabinet were various computer software CD's. The keys to the  
23 cabinet and the various offices were kept in a separate area  
24 of the office, in a desk drawer, in a location known by only  
25 a few employees.

26 14. On March 9, 2005, Silicon Valley Children's  
27 Fund was burglarized. Two computers were stolen from the  
28 second floor office space. One of the stolen computers was a

1 Dell computer, model Dimension 4550, a flat screen monitor,  
2 keyboard, wireless mouse, mouse pad and two computer  
3 speakers. This computer contained the organization's donor  
4 database. The database contained the personal information  
5 for thousands of donors, including credit card numbers,  
6 electronic withdrawal authorization numbers, etc. The second  
7 stolen computer was an older model IMAC Power PCG4 that was  
8 taken from the desk of the administrative assistant. This  
9 computer was previously assigned to JOSEPH NATHANIEL HARRIS.

10 15. The alarm to the second floor was not  
11 activated during either burglary. The alarm can be manually  
12 shut off without the use of a code. That fact is common  
13 knowledge among the employees on the second floor as well as  
14 former employees.

15 16. The second floor office space at Silicon  
16 Valley Children's Fund has a mixture of employees from Santa  
17 Clara County and the Silicon Valley Children's Fund. Any  
18 computers on the second floor owned by the county were  
19 untouched during both burglaries. All the computers stolen  
20 were those belonging to the Silicon Valley Children's Fund.

21 C. Scott's Valley Burglary

22 17. On December 29, 2004, Martin Harris, bother of  
23 JOSEPH NATHANIEL HARRIS reported to the Scotts Valley Police  
24 Department (case #04V-01789), Scotts Valley, CA that his  
25 house had been burglarized. Stolen from the house was  
26 computer hardware, jewelry, audio/video equipment, clothing,  
27 tools, lamps, passports, social security cards and Martin  
28 Harris' vehicle (a Honda Element). Martin Harris learned

1 that \$5,960.02 was charged to his Disney Visa card before  
2 January 15, 2005. On January 27, 2005, Martin Harris went to  
3 Pier One on Blossom Hill Road, San Jose, CA where on December  
4 27, 2004, \$216.50 was charged to his visa card. Martin  
5 Harris viewed the video surveillance of the suspect  
6 purchasing the rug. Harris positively identified the suspect  
7 as his brother, JOSEPH NATHANIEL HARRIS.

8 18. On February 10, 2005, the Scotts Valley Police  
9 Department conducted a search of J. HARRIS' residence located  
10 at 3993 Starview Drive, Apartment #2, San Jose, CA. At that  
11 residence, the police officers found most of the items stolen  
12 from the residence of Martin Harris at the Starview Drive  
13 apartment, including a desktop computer and a laptop  
14 computer.

15 D. Craigslist

16 19. On April 14, 2005, subpoenaed records from  
17 craigslist for neuro25@msn.com showed numerous postings for  
18 computer hardware and software for sale. I have seen several  
19 documents showing that HARRIS used neuro25@msn.com as his  
20 e-mail address. San Jose Medical Group provided one such  
21 document dated March 30, 2004, wherein HARRIS e-mailed a  
22 portion of his employment resume to San Jose Medical Group e-  
23 mail address alena\_diel@sanjosemed.com using his e-mail  
24 address Jose Harris (neuro25@msn.com). HARRIS also uses  
25 neuro25@msn.com on his personal resume.

26 20. Several of neuro25@msn.com's postings on  
27 craigslist match the description of items stolen from San  
28 Jose Medical Group and Silicon Valley Children's Fund and



1 other businesses. For example, on March 14, neuro25@msn.com  
2 advertised the following on craigslist: "Dell Dimension 4550  
3 Desktop Computer, P4, 60 GB HD, 512 DDR, 2.0GHz, DVD+RW  
4 drive, CD drive; Wireless keyboard & mouse; 17" Flat Panel  
5 LCD Monitor; Software: Windows XP Pro." Five days earlier, a  
6 Dell Dimension 4550 desktop computer with a Pentium 4  
7 processor, wireless mouse, keyboard, flat panel monitor, and  
8 Windows XP software was stolen from Silicon Valley Children's  
9 Fund. And on March 27, 2005, neuro25@msn.com advertised the  
10 following on craigslist: "Dell Optiplex GX150 PIII, 1 GHz,  
11 256 RAM, 10GB HD, DVD/CD; 19" Matching Monitor." On the  
12 morning of March 28, 2005, employees of the San Jose Medical  
13 Group has found that two Dell computers, model OptiPlex GX  
14 270, and a monitor were missing (including the DVD with the  
15 medical information for almost 200,000 patients). In  
16 addition, a number of other matches between postings on  
17 craigslist by neuro25@msn.com and computer thefts at San Jose  
18 Medical Group and Silicon Valley Children's Fund exist.

19 E. Recent activities of Joseph Nathaniel Harris

20 21. On April 15, 2005, HARRIS canceled a scheduled  
21 interview with the FBI stating he was in Coalinga, CA  
22 visiting a friend.

23 22. On April 16, 2005, at approximately 0010 hours,  
24 HARRIS was arrested by Campbell Police Department, in  
25 Campbell, CA for auto theft. His accomplice, described as a  
26 light skinned African American male, height approximately  
27 5'10", about 160 pounds, wearing black baggy pants, a dark  
28 colored jacket and black beret fled and was not apprehended

1 by the police. HARRIS denied knowing this individual.  
2 HARRIS informed the arresting officer that he locked his keys  
3 in his vehicle, a 2001, teal colored, Hyundai Santa Fe.  
4 HARRIS and the arresting officer were unable to locate the  
5 Hyundai Sante Fe.

6 23. On April 16, 2005, at approximately 0055  
7 hours, Leemar Demore Wilber was cited by the Santa Clara  
8 County Sheriff's Office, in Santa Clara County, CA for  
9 driving with no lights during darkness. The vehicle was  
10 described as a 2001, blue, Hyundai Sante Fe, CA license  
11 number 4URU128. The vehicle was registered to JOSEPH HARRIS.  
12 The vehicle was impounded by Cupertino Tow at the request of  
13 the Santa Clara Count Sheriff's Office.

14 24. On April 18, 2005, Rhonda Engel of 603  
15 Savstrom Way, San Jose, CA informed the FBI and Detective  
16 Enrique Marquez of the San Jose Police Department that "DOC"  
17 JOSEPH HARRIS was currently residing in the garage of her  
18 residence. Engel stated that Leemar, a friend of HARRIS  
19 informed her that he was concerned about HARRIS. Leemar told  
20 Engel that on Friday, April 15, 2005, he and HARRIS were  
21 driving when HARRIS saw the police and fled on foot. Leemar  
22 stated that he was left with HARRIS's vehicle and had no  
23 driver's license. Because he had no driver's license, he was  
24 stopped by the police and the vehicle was seized. Leemar  
25 told Engel that he did not know what happened to HARRIS.

26 F. Statements made by Joseph Nathaniel Harris

27 25. On April 20, 2005, FBI Special Agent Jennifer  
28 Murphy and I interviewed HARRIS while he was in custody at

1 the Santa Clara County Jail, in San Jose, CA on charges  
2 related to the theft of a vehicle in Campbell, CA, on April  
3 16, 2005. HARRIS had not been appointed legal counsel for  
4 this matter. The purpose of the interview was to investigate  
5 the theft of property from San Jose Medical Group. Prior to  
6 the interview, I advised HARRIS of the Advice of Rights  
7 (e.g., his right to remain silent and his right to an  
8 attorney.) HARRIS signed an FBI Waiver of Rights.

9           26. During the interview, HARRIS stated that on  
10 Friday, April 15, 2005, he drove to Coalinga, CA to visit a  
11 friend named Monica. He also stated that approximately one  
12 year ago, he sold Monica a Dell computer. The computer was  
13 given to him by Sam or Robert, former co-workers at his  
14 former employer.

15           27. HARRIS denied stealing a car in Campbell, CA  
16 on April 16, 2005. He also denied being with anyone named  
17 Leemar. He claimed that he may have encountered an  
18 individual on that evening that looked like someone he once  
19 met, named Leemar. HARRIS stated that he did not know the  
20 current location of his personal vehicle, a bluish green,  
21 2001, Hyundai Sante Fe.

22           28. HARRIS stated that he did advertise computers  
23 for sell on-line on Craigslist. He always cleaned the hard  
24 drive before selling these computers.

25           29. HARRIS stated that if the FBI agents took him  
26 out of jail, he could locate within 45 minutes the stolen  
27 disc with patients' medical information. HARRIS told the  
28 interviewing FBI agents that when he read in the paper that

1 the medical information of 200,000 people was contained on  
2 the CD he almost fainted and he thought "if this is the CD,  
3 let me smash it in a million pieces." HARRIS stated that he  
4 was 95% sure that the disc came from the San Jose Medical  
5 Group. HARRIS referred to the stolen DVD as, variously, a  
6 disc, a CD, and a DVD.

7 30. HARRIS stated, "I am not sure how I got this  
8 CD. I think we probably know how I got it." HARRIS stated  
9 that the disc he believed the FBI was interested in looks  
10 like a CD and has DVDR written on it. HARRIS described the  
11 CD/DVD as yellow or gold with no markings other than the  
12 factory markings. HARRIS stated that the CD/DVD was half  
13 burned or used. HARRIS stated that he believed that a CD/DVD  
14 possibly belonging to San Jose Medical Group was in his  
15 Hyundai Sante Fe. HARRIS described that the CD/DVD was  
16 possibly located in the CD carrier behind the driver's seat  
17 or in a green backpack in the back seat area. HARRIS signed  
18 a FBI Consent to Search form allowing the FBI to retrieve a  
19 yellow/gold CD/DVD from his Hyundai Santa Fe.

20 31. When I asked HARRIS about the stolen DVD, he  
21 stated, "If you have a special pair of shoes that only come  
22 from one building, then I know you got those shoes from that  
23 building."

24 32. On April 20, 2005, Wallerstein described DVD's  
25 used by San Jose Medical Group as re-writeable, gold in  
26 color, Sony or Maxell brand.

27 33. On April 21, 2005, HARRIS explained that there  
28 was an external DVD burner attached to one of the computers

1 stolen from the San Jose Medical Group during March 2005.  
2 HARRIS stated that this fact was not noted in the newspaper  
3 article about the March 28, 2005 burglary of the San Jose  
4 Medical Group at 400 Race Street, San Jose, CA. HARRIS  
5 stated that he believed that the CD/DVD that he described as  
6 possibly being in his vehicle is the missing CD/DVD and that  
7 it was found in the DVD burner. HARRIS did not remember  
8 there being a CD in the CPU drive. He did not remember black  
9 writing on any CD/DVD in his possession.

10 34. On April 21, 2004, HARRIS advised that he may  
11 be able to check with the person who purchased the hard drive  
12 (that was missing from San Jose Medical Group) to see if a CD  
13 is still in the hard drive.

14 35. On April 22, 2005, Wallerstein confirmed that  
15 one of the Dell computers stolen during the March 28, 2005  
16 burglary had an LG DVD writer/reader attached to the computer  
17 work station. His original complaint had overlooked that  
18 information. Peggy Harper, Senior Systems Analyst at the San  
19 Jose Medical Group, further confirmed that the stolen disc  
20 was not a CD in an internal drive of the computer but,  
21 rather, a DVD that was in the external drive. Wallerstein  
22 and Harper confirmed that HARRIS's statements about the  
23 external drive and the DVD were accurate.

24 G. DVD Recovery

25 36. On April 20, 2005, the FBI learned that  
26 HARRIS's Hyundai Sante Fe was stored at the Cupertino Tow  
27 impound lot, located at 365 Villa Street, Mountain View, CA.

28 37. On April 22, 2005, the FBI obtained a property

1 release from the Santa Clara County Sheriff's Office to seize  
2 a yellow or orange CD/DVD from HARRIS's Hyundai Sante Fe.

3 38. On April 22, 2005, the FBI seized a yellow  
4 Maxell DVD from HARRIS's Hyundai Sante Fe.

5 39. On April 25, 2005, Peggy Harper stated during  
6 the first two weeks of January 2005, she created a back-up of  
7 the end of the year patient data from the network. She saved  
8 the data as a folder named "Dec 2004 Backups" in the format  
9 of text files. The data was burned onto a re-writeable DVD  
10 using her Dell computer station and the LG CD/DVD  
11 writer/reader. The copied DVD containing the patient data  
12 that was stolen on March 28, 2005 along with Harper's Dell  
13 computer station and the LG CD/DVD writer/reader. The DVD  
14 was in the LG CD/DVD writer/reader when it was stolen.  
15 Harper stated that because of her heavy workload, it is  
16 possible that she did not have an opportunity to make any  
17 written identification markings on the data DVD.

18 40. On April 26, 2005, Harper viewed a copy of the  
19 stolen DVD. Upon opening the DVD, Harper recognized the  
20 folder named "2004\_12\_DEC\_RAW\_DATA" as the one she created on  
21 her computer. The folder contained the following text files:

- 22 a. BAR\_ALL\_D
- 23 b. BAR\_ALL\_TRF
- 24 c. BAR\_LI\_PAY
- 25 d. BILL\_AREA
- 26 e. FSC\_FOLLOW\_UP
- 27 f. MCA\_ALL
- 28 g. MCA\_ENROLL

1 h. MCA\_DETAIL

2 i. REF\_PHY

3 Harper identified the files as those files she created and  
4 saved to the stolen DVD. The Properties of the DVD showed  
5 that the DVD was created on Monday, January 03, 2005, 1:55:57  
6 PM.

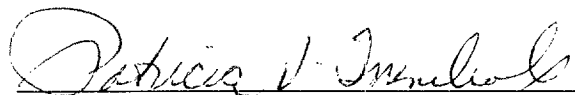
7 41. Based on the above information, there is  
8 probable cause to believe and I do believe that JOSEPH  
9 NATHANIEL HARRIS did knowingly, willfully and unlawfully  
10 steal from a health care benefit program, computer equipment  
11 as well as a DVD with sensitive medical information on almost  
12 200,000 patients, in violation of Title 18, United States  
13 Code, Section 669.

14  
15  
16 

17 Deborah S. Amrhein  
18 Special Agent  
19 Federal Bureau of Investigation  
20 San Jose, CA

21 Subscribed and sworn to before me

22 this 13 day of May, 2005.

23 

24 The Hon. Patricia V. Trumbull  
25 Chief U.S. Magistrate Judge  
26  
27  
28